

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**JUAN CARDOZO**

**vs.**

**STATE FARM LLOYDS**

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**C.A. NO. 4:19-cv-04731  
(JURY)**

**DEFENDANT STATE FARM LLOYDS' NOTICE OF REMOVAL**

TO THE HONORABLE JUDGE OF SAID COURT:

STATE FARM LLOYDS ("State Farm"), Defendant in the above-styled and numbered cause, files this Notice of Removal of the present case from the 190<sup>th</sup> Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division. In connection with this Notice of Removal, State Farm would respectfully show the Court as follows:

**I.  
PROCEDURAL BACKGROUND**

1. On November 5, 2019, Plaintiff filed this action against State Farm Lloyds in the 190<sup>th</sup> Judicial District Court of Harris County, Texas (Plaintiff previously filed suit against a different State Farm entity but amended the Petition on November 5, 2019 deleting the original State Farm entity and adding State Farm Lloyds). The state cause number is 2019-70340 ("State Court Action"). In Plaintiff's First Amended Petition ("Petition"), Plaintiff seeks monetary relief over \$250,000. State Farm was served on November 5, 2019. State Farm filed its answer on November 27, 2019.

2. In accordance 28 U.S.C. § 1446, State Farm files this Notice of Removal to remove the State Court Action from the 190<sup>th</sup> Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division.

## **II.**

### **NATURE OF SUIT**

3. Plaintiff filed this lawsuit alleging State Farm failed to pay insurance benefits owed to him in accordance with his insurance policy for damage to his home and other property caused by wind. *See Plaintiff's First Amended Petition at paragraphs 7-11*. Plaintiff asserts causes of action for breach of contract and for violations of Chapters 541 and 542 of the Texas Insurance Code, violations of the Deceptive Trade Practices Act, and breach of the common law duty of good faith and fair dealing. *Id. at paragraphs 18-41*.

## **III.**

### **BASIS OF REMOVAL**

4. The Southern District of Texas has jurisdiction over this action, pursuant to 28 U.S.C § 1441 and 28 U.S.C. § 1332, because the parties are diverse and the amount in controversy exceeds \$75,000, exclusive of interests and costs.

5. First, the parties are diverse. At all relevant times, Plaintiff was, and continues to be, a Texas citizen. *See Plaintiff's First Amended Petition at paragraph 2*. State Farm Lloyds is an association of individual underwriters authorized to conduct business in Texas as a Lloyd's plan insurer, which is defined and set out in Chapter 941 of the Texas Insurance Code. The citizenship of an unincorporated association is determined by the citizenship of each member of the entity, not by the state where the entity is organized. *Royal Ins. Co. v. Quinn-L Capital Corp.*, 3 F.3d 877, 882–83 (5th Cir. 1993) (finding that a Lloyd's plan association was not a Texas citizen); *see Griggs v. State Farm Lloyds*, 181 F.3d 694, 698 (5th Cir. 1999) (finding that State Farm Lloyds is

a citizen of Illinois); *Caballero v. State Farm Lloyds*, No. CA-C-03-266, 2003 WL 23109217, at \*1 (S.D. Tex. Oct. 31, 2003) (same). At all relevant times, State Farm was, and continues to be, an unincorporated insurance association whose underwriters were, and still are, citizens of states other than Texas. *See* attached Affidavit of Michael Roper. Accordingly, State Farm is not a citizen of the State of Texas.

6. Second, the amount in controversy exceeds 75,000. Plaintiff has pled that his damages exceed \$250,000. *See Plaintiff's First Amended Petition at paragraph 4*. Thus, removal to the Southern District of Texas is proper.

#### **IV.** **REMOVAL PROCEDURES**

7. On November 5, 2019, Plaintiff filed the Amended Petition against State Farm Lloyds in the 190<sup>th</sup> Judicial District Court of Harris County, Texas. State Farm was served on November 5, 2019. State Farm filed its Answer on November 27, 2019. This Notice of Removal is being timely filed on December 5, 2019. Accordingly, this Notice of Removal is timely filed within 30 days of when State Farm received service, *see* 28 U.S.C. § 1446(b)(1), and within one year from the commencement of this suit. *See* 28 U.S.C. § 1446(c)(1).

8. The Houston Division of the Southern District of Texas is the proper venue because: (1) Plaintiff's property, which was allegedly damaged by wind and which forms the basis of Plaintiff's lawsuit, is located in Harris County, 28 U.S.C. § 1391(b)(2), and (2) Plaintiff's State Court Action was brought, and is pending, in Harris County. 28 U.S.C. § 1441(a). Harris County is within the jurisdictional limits of the Houston Division. 28 U.S.C. § 124(b)(2).

9. All information and documents required by 28 U.S.C. § 1446(a) and by Local Rule 81 to be filed with this Notice of Removal are attached and indexed in Exhibit A. In addition,

pursuant to 28 U.S.C. § 1446 (d), a copy of this Notice of Removal will be promptly filed with the Harris County District Clerk's Office and served on the Plaintiff.


10. A jury fee was paid in state court and Defendant hereby request a jury trial in this cause of action.

**V.**  
**PRAYER**

11. State Farm respectfully requests that the above-styled action now pending in the 190<sup>th</sup> Judicial District Court of Harris County, Texas, be removed to this Honorable Court pursuant to the Court's diversity jurisdiction, that upon final trial, judgment be rendered for State Farm and against Plaintiff, that State Farm recover its costs, and for such other and further relief to which State Farm may be justly entitled.

Respectfully submitted,

**GERMER PLLC**

By: 

**DALE M. "RETT" HOLIDY**

Federal Bar No. 21382

State Bar No. 00792937

America Tower

2929 Allen Parkway, Suite 2900

Houston, Texas 77019

(713) 650-1313 - Telephone

(713) 739-7420 - Facsimile

[rholiday@germer.com](mailto:rholiday@germer.com)

**ATTORNEY FOR DEFENDANT,  
STATE FARM LLOYDS**

**OF COUNSEL:**

**GERMER PLLC**

James A. Tatem

State Bar No. 00785086

Federal I.D. No. 16798

America Tower

2929 Allen Parkway, Suite 2900

Houston, Texas 77019  
(713) 650-1313 - Telephone  
(713) 739-7420 - Facsimile  
[jatatem@germer.com](mailto:jatatem@germer.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing instrument was forwarded to all known counsel pursuant to the Federal Rules of Civil Procedure on this the 5<sup>th</sup> day of December, 2019.

Shaun W. Hodge  
THE HODGE LAW FIRM, PLLC  
Old Galveston Square Bldg.  
2211 Strand, Suite 302  
Galveston, Texas 77550

**VIA CM/ECF**



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DALE M. "RETT" HOLIDAY

## **EXHIBIT A**

### **LIST OF ATTORNEYS/PARTIES**

1. Shaun W. Hodge  
[shodge@hodgefirm.com](mailto:shodge@hodgefirm.com)  
THE HODGE LAW FIRM, PLLC  
Old Galveston Square Bldg.  
2211 Strand, Suite 302  
Galveston, Texas 77550  
Telephone: (409) 762-5000  
Facsimile: (409) 763-2300

*Attorneys for Plaintiff*

2. Dale M. "Rett" Holiday  
[rholiday@germer.com](mailto:rholiday@germer.com)  
James A. Tatem  
[jatatem@germer.com](mailto:jatatem@germer.com)  
GERMER PLLC  
America Tower  
2929 Allen Parkway, Suite 2900  
Houston, Texas 77019  
Telephone: (713) 650-1313  
Facsimile: (713) 739-7420

*Attorneys for Defendant*

### **INDEX OF DOCUMENTS FILED WITH REMOVAL ACTION**

#### **JUAN CARDOZO VS. STATE FARM LLOYDS**

- (a) Plaintiff's Original Petition
- (b) Domestic Return Receipt for State Farm Insurance Company
- (c) Plaintiff's First Amended Petition
- (d) Defendant State Farm Lloyds' Original Answer and Jury Demand
- (e) Docket Sheet